Civil Rights

Definition: Guarantees and protections designed to prevent discrimination on the basis of race, color, creed, religion, natl. origin, age and gender from both private AND public, govt. institutions

Constitutional Basis: Post-Civil War Reconstruction Amendments;

13th Amendment (1865) – Abolition & Prohibition of Slavery (1865)
14th Amendment (1868) – 1: Established Citizenship Requirements
  2: “Due Process” Clause
  3: “Equal Protection” Clause
    No state can deny any person these protections afforded by the 14th Amendment.

15th Amendment (1870) – Empowered all male citizens with voting rights & protections regardless of race, creed, color or previous servitude.
  - Effectively expanded voting rights to African-American male citizens – still excluded women

19th Amendment (1920) - Voting Rights expanded to Include Female Citizens
24th Amendment (1964) – Prohibited poll taxes as a condition of voting (for citizens)
26th Amendment (1971) – Voting Rights to all Citizens, 18 and over

Historical Background: Segregation

- Supreme Court rulings that gave states the ability to segregate racial groups
- Supreme Court declared 1875 Civil Rights Act as unconstitutional; Rationale was that the 14th Amend. prohibited strictly discrimination from public, govt. institutions – the Civil Rights Act of 1875 prohibited private discrimination (Strict Constructionist View)
- 1896, Plessy v. Ferguson; Court ruled that states (both public and private entities) could segregate racial groups so long as facilities were “Separate But Equal” for all racial groups
- This was to become the Constitutional rationale for segregation and “Jim Crow” laws – practiced by primarily Southern states
- Before and after WWII, the Supreme Court began to progress modestly with rulings that allowed access to African-Americans with regard to law school admissions, primary elections, etc. without directly confronting the “Separate But Equal” doctrine that “Plessy v. Ferguson” had established as precedent

The Turning Point: Brown vs. Board of Education of Topeka, KA., 1954
- Test case was student Linda Brown, who traveled across town to attend an all-African American public school
- A series of sociological tests, given by Ken Clark, showed that black school children had suffered injury to self as a result of segregation
- In a unanimous decision, the Supreme Court ruled that “separate but equal” was inherently unequal
- The states no longer had the power to use race as a criterion of discrimination in law
- The federal govt. now had the power to intervene with strict regulatory policies to prevent states, local govt.s, school boards or private institutions from discrimination
- Still, even after the Brown decision, there was still a large amount of “de facto” and “de jure” segregation; states and localities still practiced “Jim Crow” laws in areas other than public education
- Also, school districts were still very slow to enforce de-segregation and integration
- 1957, Civil Rights Act, which created Civil Rights Commission
- 1957, Southern Christian Leadership Conference (SCLC) formed, Dr. Martin Luther King Jr. is Pres. of SCLC
- 1960, Congress passes first substantive Voting Rights Act
- 1960, Student Non-violent Coordinating Committee (SNCC) formed;
- Led “freedom rides”, “sit-ins” and protests like the one in Greensboro, NC
- 1964, Historic Civil Rights Act passes
- 1965, Historic Voting Rights Act passes

- 1957 Civil Rights Act established Civil Rights Commission to oversee progress and any violations
- Increased the importance of the Civil Rights Division within the Justice Dept.
- Made it a federal crime to try to intimidate or keep a person from voting
- Civil Rights Act of 1960 increased penalties against obstruction of voting or against court orders
- Established federal power to appoint referees to register voters wherever discrimination was found to be a common pattern

- 1964 Civil Rights Act barred discrimination in any kind of commercial lodging, service station, restaurant, etc.
- Empowered the U.S. Atty. General to sue to achieve desegregation
- Withheld federal aid from schools that still segregated
- Barred discrimination in employment practices, on the basis of race, religion and gender
- Established the Equal Employment Opportunity Commission (EEOC)
- Voting Rights Act of 1965 empowered the Atty. General to appoint voting examiners to replace local registrars whenever it was found that fewer than 50% of all persons of voting age had voted in the 1964 presidential election
- Banned the use of “literacy tests,” which served as a tool to discourage and prevent African-Americans from voting
- 1968 Civil Rights Act of 1968 barred discrimination with regard to buying or renting housing on the basis of race or religion – provided that a bona fide offer was made
- There had also been a number of amendments in the 1970’s and ‘80’s to these acts as a way to extend them and to protect against public sector employee discrimination, protect language minorities such as Latinos or Native Americans from discrimination and to protect women, including expecting mothers

Federal Intervention in Busing

- The Supreme Court not only tried to bring and end to segregation, but also tried to bring forth actual integration
- This was through the form of cross-town integrated busing as a way to promote integration in school enrollment
- Green v. County School Board of New Kent Co., VA: The court case involving New Kent Co. Virginia had the court enforcing busing as a way to try and eliminate “de facto” segregation;
- Court ruled that anything short of actual school integration by way of integrated school busing fell short of compliance with the Brown case and Equal Protection clause of 14th Amendment
- “Ultimate Ends” Test; The actual result of integration (not just intent or good faith) had to be shown if school district busing policy had to pass muster
- 1991, Dowell v. Board of Ed., Illinois amended the Green ruling and ruled that “good faith” and intent was sufficient
- This marked the transition from the “activist” court of the 1960’s and ‘70’s to the more strict constructionist court of the ‘80’s and ‘90’s

Affirmative Action

Landmark case: Bakke v. UC Regents, 1973

- Court ruled that race could be a factor, but not the only factor in determining college admissions
- Recent Events: (A) Proposition 209
- (B) Gratz v. Bollinger (U. of Michigan undergrad. Admissions)
- © Grutter v. Bollinger (U. of Michigan law school admissions)

Extending Civil Rights to cover Sexual Orientation – Same Sex Marriage

Yes? No? Why?